

REMARKS

This Amendment and Response is responsive to the final Office action dated December 8, 2009, setting forth a shortened three month statutory period for reply expiring on March 8, 2010. The Assignee submits this Amendment and Response on June 7, 2010, thereby timely responding to the Office action with a three month extension of time petition and fee as required. This Amendment and Response is submitted with a Request for Continued Examination.

This response amends claims 14, 16, 19, 22, 25, 28, and 31 and cancels claims 41-42. Thus, after entry of this Amendment and Response, claims 14 and 16-33 will be pending, with claim 14 being an independent claim.

I. Rejection of claims under 35 U.S.C. § 103

The Examiner rejects claims 14, 16-20, 22-33, and 41-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0018558 to Heffner et al. (hereinafter "Heffner") in view of U.S. Patent No. 5,930,775 to McCauley et al. (hereinafter "McCauley"). The Assignee respectfully disagrees with the rejections.

Amended independent claim 14 recites "obtaining an estimated liquidation time between a last interest paid date for the at least one loan and a receipt of a net proceeds from a sale of the property after a foreclosure of the loan" by "applying a liquidation time value decision tree, wherein the liquidation time value decision tree includes...at least: a first time factor to account for a payment plan associated with the at least one loan; a second time factor to account for a bankruptcy proceeding associated with the at least one loan; a third time factor to account for litigation associated with the at least one loan; a fourth time factor to account for foreclosure proceedings associated with the at least one loan; a fifth time factor to account for a delinquency status of the at least one loan; and a sixth time factor to account for a marketing period to sell the property." The Assignee respectfully submits that the combination of McCauley and Heffner does not teach or suggest all these limitations, in combination.

The Examiner admits that Heffner does not disclose obtaining an estimated liquidation time, as well as the claimed liquidation time value decision tree that includes the claimed time factors. *See the Office Action dated December 8, 2009; page 5.* The Examiner instead relies on McCauley as disclosing the above limitations. *See the Office Action dated December 8, 2009; pages 5-7 and 4.*

The Assignee asserts that McCauley does not teach or suggest applying a liquidation time value decision tree to obtain an estimated liquidation time between a last interest paid date for at least one loan and a receipt of a net proceeds from the sale of the property after foreclosure of the loan, where the liquidation time value decision tree includes the claimed time factors. Specifically, McCauley states that the database 352 includes information on expected costs associated with foreclosures based on historical averages and that this includes factors used in determining foreclosure costs and application of those factors to a particular property in light of the property's location, number of units, or stage of delinquency. *McCauley, col. 7; lines 52-67*. However, to the Assignee's knowledge, McCauley does not state or even suggest the exact nature or extent of these factors.

Claim 14 recites that the liquidation time value decision tree includes "a first time factor to account for a payment plan associated with the at least one loan." The Assignee respectfully submits that McCauley does not teach a liquidation time value decision tree that includes this first time factor. The Examiner cites to col. 1, lines 25-30; col. 2, lines 19-26; col. 11, lines 1-7; col. 8, lines 22-60 fig. 6; and abstract of McCauley. However, the cited portions refer to disparate topics such as the nature of promissory notes, modification of loan conditions, the present value of the amount by which borrower payments are lower than at market rates for a loan modification, generating a comparison of different loan options, and estimation of foreclosure fees and costs for a loan based on average fees and costs for the relevant state and savings if foreclosure is cut short. Nowhere in the cited sections, to the Assignee's knowledge, does McCauley indicate that a time factor to account for a payment plan associated with a loan is utilized to obtain an estimated liquidation time for a loan.

Also, claim 14 recites that that the liquidation time value decision tree includes "a second time factor to account for a bankruptcy proceeding associated with the at least one loan." The Assignee respectfully submits that McCauley does not teach a liquidation time value decision tree that includes this second time factor. The Examiner cites to col. 2, lines 19-26; col. 3, lines 1-31; col. 5, lines 1-33, col. 7, lines 1-8; fig. 6; and abstract of McCauley. However, the cited portions refer to disparate topics such as modification of loan conditions, generating a repayment plan if a borrower can afford to repay, determining an appropriate action on a loan if a borrower cannot afford to repay, determining an anticipated value of a nonperforming loan, determining a rate of return for a short payoff and foreclosure situations, and obtaining parameters of a loan and the borrower's financials. To the Assignee's knowledge, nowhere in

the cited sections does McCauley indicate that a time factor to account for an to account for a bankruptcy proceeding associated with a loan is utilized to obtain an estimated liquidation time for a loan.

Further, claim 14 recites that that the liquidation time value decision tree includes "a third time factor to account for litigation associated with the at least one loan." The Assignee respectfully submits that McCauley does not teach a liquidation time value decision tree that includes this third time factor. The Examiner cites to col. 2, lines 19-26; col. 8, lines 39-47; col. 3, lines 1-31; col. 5, lines 1-33, col. 7, lines 1-8; and fig. 6 of McCauley. However, the cited portions refer to disparate topics such as modification of loan conditions, reduction of foreclosure costs by short payoff during the foreclosure process, generating a repayment plan if a borrower can afford to repay, determining an appropriate action on a loan if a borrower cannot afford to repay, determining an anticipated value of a nonperforming loan, determining a rate of return for a short payoff and foreclosure situations, and obtaining parameters of a loan and the borrower's financials. Nowhere in the cited sections, to the Assignee's knowledge, does McCauley indicate that a time factor to account for litigation associated with a loan is utilized to obtain an estimated liquidation time for a loan.

Moreover, claim 14 recites that that the liquidation time value decision tree includes "a fourth time factor to account for foreclosure proceedings associated with the at least one loan." The Assignee respectfully submits that McCauley does not teach a liquidation time value decision tree that includes this fourth time factor. The Examiner cites to col. 2, lines 19-26; all of columns 3-8; and all of figures 1-6 of McCauley. However, the cited portions refer to most of McCauley without any specifics. McCauley estimates foreclosure costs based on applying factors in a database to a particular property in light of the property's location, number of units, or stage of delinquency. *McCauley*, col. 7; lines 52-67. McCauley does not state the exact nature or extent of these factors, to the Assignee's knowledge. Additionally, the Assignee is unaware of any portion of McCauley indicating that a time factor to account for foreclosure proceedings associated with a loan is utilized to obtain an estimated liquidation time for a loan.

Additionally, claim 14 recites that that the liquidation time value decision tree includes "a sixth time factor to account for a marketing period to sell the property." The Assignee respectfully submits that McCauley does not teach a liquidation time value decision tree that includes this sixth time factor. The Examiner cites to figs. 1-6, abstract, and the entirety of columns 5-8 of McCauley. However, the cited portions refer to disparate topics such as the

generating comparisons of different options for problem loans, modification of loan conditions, determining whether loan modification is an acceptable option, counseling borrowers on loan options, and calculating savings of loan modification over foreclosure. The Assignee is unaware of anything in the cited sections of McCauley indicating that a time factor to account for a marketing period to sell a property is utilized to obtain an estimated liquidation time for a loan.

Thus, the Assignee asserts that McCauley does not teach or suggest a liquidation time value decision tree that includes the claimed time factors. Heffner does not cure the defects of McCauley. Hence, as McCauley and Heffner do not teach or suggest the above limitations, the combination of McCauley and Heffner does not teach or suggest all of the elements of amended independent claim 14. As such, the Assignee respectfully submits that amended independent claim 14 is patentable over the combination of McCauley and Heffner.

Dependent claims 16-20 and 22-33 depend from independent claim 14. The Assignee respectfully submits that claims 16-20 and 22-33 are patentable at least due to their dependence on an allowable base claim. The Assignee makes this statement without reference to, or waiving, the independent bases for patentability in claims 16-20 and 22-33. The Assignee reserves the right to separately argue the patentability of claims 16-20 and 22-33 in a subsequently filed response, if necessary.

Dependent claims 41-42 have been cancelled and the Assignee respectfully submits that the rejections are moot with regards to these claims.

Claim 21 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Heffner et al. and McCauley et al. as applied to claim 20 and further in view of U.S. Patent Publication No. 2001/0044773 to Sellers et al. (hereinafter "Sellers et al."). The Assignee respectfully disagrees with the rejection. Dependent claim 21 depends from independent claim 14. The Assignee respectfully submits that dependent claim 21 is patentable at least due to its dependence on an allowable base claim. The Assignee makes this statement without reference to, or waiving, the independent bases for patentability in dependent claim 21. The Assignee reserves the right to separately argue the patentability of dependent claim 21 in a subsequently filed response, if necessary.

Appl. No. 09/991,762

Reply to Final Office action of December 8, 2009

II. Conclusion

After entry of the above listing of claims and remarks, claims 14 and 16-33 will be pending in the application. In accordance with the amendments and arguments set forth herein, the Assignee respectfully submits the application and all claims are in a condition for allowance, and requests such prompt allowance.

This Amendment and Response is filed with a Request for Continued Examination and a Petition for a three month extension of time fee. Accordingly, please charge Deposit Account No. 04-1415 in the amount of \$1,920.00 for the Request For Continued Examination fee and the three month extension of time fee. The Assignee believes no further fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this as authorization therefor and please charge such fees to Deposit Account number 04-1415.

Should any issues remain that the Examiner believes may be dealt with in a telephone conference, the Examiner is invited to contact the undersigned at 303-260-6368.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney.

Respectfully submitted,

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